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South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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NOTE: Bill summaries included in this document are prepared by the staff of the South Carolina House of Representatives and are not the expression of the legislation's sponsor(s) or the House of Representatives. The summaries are strictly for the internal use and benefit of members of the House of Representatives and are not to be construed by a court of law as an expression of legislative intent.

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HOUSE WEEK IN REVIEW

The House of Representatives amended, approved, and sent to the Senate H.3612, the "**SOUTH CAROLINA SCHOOL DISTRICTS PROPERTY TAX RELIEF ACT.**" The legislation authorizes the imposition of a one percent sales and use tax within a county for the distribution to the school districts located wholly or partially within the county. The board of trustees of a school district, before the expenditure of the proceeds of the tax, must by resolution determine the specific purposes for which the proceeds of the tax must be expended. The proceeds must be applied only to reduce ad valorem property taxes imposed to pay debt service on general obligation bonds of that school district or otherwise defray the cost of capital improvements within that school district. The tax authorized by this legislation may be imposed within a county upon the adoption of an approving resolution by the boards of trustees of each school district, and the subsequent approval of the imposition of the tax by referendum open to all qualified electors residing in the county. The tax may be imposed for a period not to exceed seven years. A referendum required by this legislation may only be conducted in even-numbered years at the same time as the general election with the polling places of all precincts required to be open. The gross proceeds of the sale of items subject to a maximum sales tax under state law are exempt from the tax imposed by this legislation. The gross proceeds of the sale of food which may lawfully be purchased with United States Department of Agriculture food coupons are also exempt from the tax imposed by this legislation. The tax may be renewed and imposed within a county in the same manner as proceedings for the initial imposition of the tax. A referendum on the question of reimposition of a tax shall not be held more than two years prior to the date upon the tax then in effect is scheduled to terminate, provided that any reimposition shall become effective immediately upon the termination of the tax previously imposed.

The House amended and subsequently recommitted the to the Ways and Means Committee H.3649, a bill providing that a **TWO-THIRDS VOTE IS REQUIRED FOR A GOVERNING BODY TO IMPOSE OR INCREASE TAXES OR FEES.**

The House approved and sent to the Senate H.4115, the "**SOUTH CAROLINA BIRTH DEFECTS ACT.**" The bill establishes the S.C. Birth Defects Program within the Department of Health and Environmental Control (DHEC) to promote understanding, prevention, and reduction of birth defects, and to provide assistance to families with children who have birth defects. Under the provisions of the bill, DHEC will conduct public health monitoring, make referrals, and provide other interventions related to birth defects. Information gathered will be used for: 1) public health and research to be published for education purposes and released in aggregate form without identifying information; and 2) facilitation of service and treatment referral so that the individual child and family may access optimal care. The bill prohibits DHEC from providing referral services or counseling for the purpose of pregnancy termination, and provides that referral procedures must be promulgated by DHEC in regulation. The bill provides that DHEC will conduct active monitoring of birth defects, and will maintain a central database for gathering of data from hospitalizations, specialty clinics, births, pregnancies, stillbirths, and

pediatric deaths through age two, throughout the state. This bill also creates a volunteer Birth Defects Advisory Council (the Council) composed of at least 11 members appointed by the DHEC Commissioner from 11 organizations specified in the bill. Members are not entitled to compensation, mileage, per diem, or subsistence. The Council may make recommendations to DHEC regarding the establishment of procedures for the birth defects program; the transition from the existing S.C. Neural Tube Defects Prevention Program into an integrated system of comprehensive birth defects monitoring based at DHEC; the allocation of funding, cooperative agreements, and grants; and evaluation of the birth defects program. The bill provides that an entity required to provide information to DHEC is not subject to liability for providing access and information. The bill also provides that violation of confidentiality provisions in the bill is a misdemeanor punishable by a fine of not more than \$1000 or imprisonment for not more than 180 days. The bill authorizes DHEC to enter into agreements and contracts with federal agencies, other states, and other parties in order to facilitate operation of the program. Implementation of the provisions of the bill is contingent upon the appropriation of state general funds or the availability of financial support from other sources and the program must be operational within one year of adequate funding becoming available.

The House amended, approved, and sent to the Senate H.4405. This bill revises provisions relating to **FUEL COSTS INCURRED BY ELECTRICAL UTILITIES FOR THE SALE OF ELECTRICITY**, so as to further clarify that the term "fuel costs related to purchased power" includes costs of firm generation capacity purchases and the total delivered cost of economy purchases of electric power.

The House did not concur in Senate amendments to H.3617, a bill pertaining to **PRENEED BURIAL CONTRACTS**.

HOUSE COMMITTEE ACTION

EDUCATION AND PUBLIC WORKS

The Committee reported favorable with amendment on H.4537. As approved by the Committee, this bill **MOVES THE DIVISION OF AERONAUTICS (THE DIVISION), CURRENTLY WITHIN THE DEPARTMENT OF COMMERCE, TO THE DEPARTMENT OF TRANSPORTATION (DOT)**. The bill creates within the DOT, the State Aeronautics Commission (the Commission), charged to establish and oversee the public policy operations of the Division. The bill requires the Director of DOT to establish and oversee the administrative operations of the Division and provides that the Division's director must be appointed or dismissed by the Director of DOT with the advice and consent of the Commission. The Division is subject to the administrative procedures of the DOT.

The bill provides for election of Commission members by legislative delegations of Congressional districts, and provides for members' terms of service. Under the provisions of the bill, the Commission would adopt its own rules and procedures.

The bill provides that the activities of the Division must be funded through the State Aviation Fund and general appropriations to the Division. The bill adds as a function and purpose of DOT, the development of state public airports and an air transportation system.

The bill also amends the Uniform Aircraft Financial Responsibility Act by providing that persons aggrieved by an act or order of the Division may have judicial review by appeal to the Administrative Law Judge Division, rather than to the circuit court, as is currently provided.

The Committee reported favorable with amendments on H.3714, the "**SOUTH CAROLINA EDUCATION AND ECONOMIC DEVELOPMENT ACT.**" As amended by the Committee, this bill:

- Includes provisions intended to provide students with strong academics and real-world problem solving skills through individualized educational, academic, and career oriented choices and through greater exposure to career information and opportunities.
 - Organizes curriculum around clusters of study.
 - Implements career awareness programs in grades 1-5.
 - Implements career counseling and career awareness programs in grades 6-8.
 - Expands career planning for eighth grade students to graduation plans
 - Employs career specialists in all middle and high schools.
 - Up-dates eighth grades graduation plans in 9th and 10th grades.
 - 10th graders declare an area of academic focus.
 - Involves parents in development of all graduation plans.
- Establishes model programs for at-risk students to ensure that these students receive the opportunity to complete the necessary requirements to graduate with a state high school diploma and build skills to prepare them to enter the job market successfully.
 - State Board must, through regulation, outline specific objective criteria for districts to use in the identification of students at risk for being poorly prepared for the next level of study or for dropping out of school.
 - State Board must, through regulation, identify model programs for at risk students
 - Each high school must implement one or more model program to ensure at-risk students can graduate with a state high school diploma.

- Requires all school districts, two-year colleges, and four-year colleges and universities to develop articulation agreements based on clusters of study.
 - Establishes a clear pathway for students to move from high school directly in colleges and universities while maximizing credit.
 - Articulation agreement must have statewide applicability within a related course of study.
 - Dual credit courses must be equivalent in content and rigor to the equivalent college courses.
 - Commission of Higher Education must monitor and enforce the statewide articulation agreements and develop penalties for colleges and universities that do not comply.
- Creates Education and Economic Development Council and Project Office to implement the act and enforce the requirements of the act.
- Identifies twelve regional education service centers to coordinate and facilitate the delivery of information, resources, and services to students, educators, employers, and the community.
- Replaces School-to-Work Act.

JUDICIARY

The full House Judiciary Committee met on Tuesday, January 27, and reported out two bills.

The committee gave a report of favorable with amendment on **H.3594**, a bill providing for the **EXPANSION OF INMATE DNA SAMPLING PROGRAM**. The legislation expands the state's inmate deoxyribonucleic acid (DNA) sampling program by requiring all inmates convicted of violent crimes to provide DNA samples for inclusion in the database maintained by the State Law Enforcement Division (SLED). To effect this expansion, the legislation eliminates the violent offenses that are specifically exempted from the DNA sampling program under current law.

The committee also gave a report of favorable with amendment on **H.3726**, a bill that revises provisions relating to **INTERFERENCE WITH A CHILD CUSTODY ORDER**. The bill establishes circumstances under which a law enforcement officer may recover a child whom he believes has been taken or is being withheld from his legal custodian. After being shown a court order awarding legal custody, an officer may seek a warrant to enter a dwelling, structure, or vehicle where it is believed that a child is being held in violation of the custody order to recover and return the child to the legal custodian. The officer need not seek a warrant for these actions if he has probable cause to believe that the child's health or safety is in danger. The bill provides a penalty for a person who knowingly gives false information to a law enforcement officer during the course of a dispute involving the custody of a child.

The legislation applies only to situations involving a child that is less than sixteen years of age.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

H.4611 *DESIGNATION OF BIRD SANCTUARY* Rep. Miller

This bill designates a certain area in Georgetown County as a bird and wild fowl sanctuary.

S.731 *FISHING IN EDGEFIELD COUNTY* Sen. Moore

This bill amends certain fishing regulations on Slade Lake in Edgefield County, and makes it unlawful on Slade Lake or the recreational area of Slade Lake to: use nongame fishing devices; possess firearms; litter; possess glass containers; possess alcoholic beverages; or operate a motor vehicle off designated roadways or park a vehicle outside of designated parking areas.

H.4633 *ABANDONED WATERCRAFT* Rep. Ceips

This bill authorizes and makes provision for a county or municipality to remove abandoned or derelict watercraft from waters under its jurisdiction and from adjacent intertidal lands. The bill also provides that it is unlawful to abandon any watercraft on the salt waters of South Carolina or on adjacent tidal lands except in certain emergencies. The bill provides that violation of this provision is a misdemeanor punishable by fine or imprisonment.

EDUCATION AND PUBLIC WORKS

H.4652 *PARKING VIOLATIONS/HANDICAPPED PARKING* Rep. J. Brown

This bill adds to the point system for violation of motor vehicle laws, a two point penalty for improper use of a parking space. The bill also adds provisions restricting the use of a handicapped placard and provides penalties for falsification on an application for a handicapped parking space plate or placard and for illegal duplication, forgery, or sale of a handicapped parking placard or plate. The bill increases the fine for parking unlawfully in a handicapped parking space and includes provisions for certain trained volunteers to issue tickets for handicapped parking violations. The bill includes provisions for issuance of uniform parking tickets as a means for tracking and recording violators.

H.4653 *SOUTH CAROLINA PARENTAL RESPONSIBILITIES*

ACT Rep. W.D. Smith

This bill enacts the South Carolina Parental Responsibilities Act of 2004, requiring each school district to adopt a student discipline policy that outlines expectations for student conduct and consequences for inappropriate behavior and other infractions. The bill includes provisions authorizing the district to request a subpoena compelling the presence of a parent who has failed to attend, participate, or respond to a public school's third request for a conference regarding a child's academic progress or a child's violation of school rules or regulations, and the bill provides that a parent who fails to obey such a subpoena may be held in contempt of court. If a parent is found in contempt of court, the parent may be ordered by the court to attend a parent responsibility program; shadow his child; pay a fine up to \$500; or be imprisoned for up to thirty days for each violation.

The bill requires the State Department of Education (the Department) to develop or select training programs for appropriate school personnel in working with certain at-risk students and those students' parents. The bill also requires the State Board of Education (the Board) and the State Commission on Higher Education to develop program approval standards which give special attention to teaching and student development techniques promoting high academic achievement, high self-esteem, and high levels of social conduct and responsibility for certain college and university education training programs.

The bill requires the Board to establish policies and procedures for allowing schools and school districts to enroll students in alternative or adult education programs when these programs are sought as a part of a student program for preventing further truancy. The bill requires and provides for districts to adopt truancy policies, and provides for parent responsibility programs to address problems underlying student nonattendance. The bill requires school districts to notify students and parents or guardians of the state attendance laws and their penalties and consequences at the beginning of each school year. The bill provides for parental notification and for parental conference and intervention procedures, including referral to family court, when a student has accumulated a certain number of unlawful absences from school. The bill delineates procedures to be used in the event that a parent or guardian neglects to enroll a child in school, and increases the punishment for a parent's failure to comply with an order to enroll a child.

The bill includes procedures requiring school districts to notify the Department of Motor Vehicles (DMV) when a student has been expelled from school, and requires the DMV, except under specified conditions, to suspend the driver's license of the student for the length of the expulsion. The bill amends the law regarding a parent's responsibility to cause a child to attend school by increasing from seventeen to eighteen the age until which a child shall attend school.

H.4658 UNBORN CHILDREN'S MONUMENT Rep. Davenport

This bill creates and provides for the Unborn Children's Monument Commission, to direct that a privately-funded and state-maintained monument be erected on the State House grounds as a memorial to South Carolina children whose lives ended before their birth.

JUDICIARY

H.4613 *FIRST OFFENSE FINES FOR DRIVING WHILE UNDER THE INFLUENCE* Rep. Skelton

This bill increases the fine for a first offense violation of certain offenses concerning the operation of a motor vehicle while under the influence of alcohol or another substance from four hundred dollars to one thousand four hundred dollars.

H.4625 *WATER DISTRIBUTION UNDER SPECIAL PURPOSE AND PUBLIC SERVICE DISTRICTS* Rep. Cooper

This bill revises definitions pertaining to special purpose and public service districts and the powers of commissions of these districts, so as to authorize the imposition of assessments to be used to defray the cost of water distribution lines and to clarify the definition of water "collection lines".

H.4636 *INVESTMENT AUTHORITY OF COUNTY TREASURERS* Rep. Ceips

This bill clarifies the authority of the governing body to delegate investment authority to the county treasurer appointed in a council-manager form of government.

H.4638 *MUNICIPALITY PROVIDING WATER SERVICE TO RESIDENTS IN ANOTHER MUNICIPALITY* Rep. Merrill

This bill provides that a municipality which provides water service to residents in another municipality may not charge those residents a higher rate for the water service than its own residents if the municipality owns, maintains, or operates a water treatment facility in the other municipality.

S.354 *ADMISSIBILITY OF OUT-OF-COURT STATEMENTS MADE BY CHILDREN LESS THAN TWELVE YEARS OF AGE* Sen. Hutto

This bill provides that an out-of-court statement made by a child less than twelve years of age describing certain offenses that the child is a victim of or witness to is admissible as evidence under certain circumstances.

H.4641 *APPOINTMENT OF AN ATTORNEY IN A CIVIL ACTION* Rep. Delleney

This bill revises provisions relating to appointment of an attorney in a civil action, so as to provide that a civil action includes an action for post-conviction relief. The bill eliminates the exception when the appointment is provided for by statute. The bill revises provisions relating to court costs and expenses for indigent defendants, so as to provide that these provisions may not be construed to allow the appointment of an attorney in a civil action.

H.4642 *POW/MIA RECOGNITION DAY* Rep. Skelton

This bill provides that the third Friday in September of each year is declared to be "POW/MIA Recognition Day" in South Carolina. The bill provides that the Governor shall issue a proclamation each year calling upon the people of South Carolina to observe the day with appropriate ceremonies and activities. The bill provides that

on the recognition day the flags atop state and local public buildings including the State Capitol Building shall be flown at half-staff until noon.

H.4648 CRIMINAL JUSTICE ORGANIZATIONS EXEMPTED FROM TORT LIABILITY Rep. Harrison

This bill adds criminal justice organizations to the definition of professional societies that are exempt from tort liability.

H.4649 INVESTIGATIONS OF TRAFFIC COLLISIONS INVOLVING LAW ENFORCEMENT VEHICLES Rep. Harrison

This bill revises provisions for investigations of traffic collisions involving a motor vehicle or motorcycle of a law enforcement agency, so as to define the term "involved in a traffic collision." The bill provides that any investigation that occurs as a result of a collision involving a police vehicle must include a field investigation to identify possible witnesses.

H.4650 CONVERSION OR DOMESTICATION OF CORPORATIONS Rep. Harrison

This bill establishes new provisions for domestication in South Carolina of a foreign corporation as well as provisions for conversions and mergers of corporations, partnerships, and limited liability partnerships.

H.4651 STATE EMPLOYEE CRIME VICTIMS LEAVE Rep. Altman

This bill provides paid leave for state employees to attend court proceedings for the adjudication of the defendant charged with a violent crime committed against the state employee or a member of the state employee's immediate family.

H.4654 UNLAWFUL USE OF COUNTERFEIT MARKS Rep. Sinclair

This bill revises provisions relating to the unlawful use of counterfeit marks, so as: to further define a "counterfeit mark"; to establish felonies for the use of a counterfeit mark in certain instances, for trafficking in connection with the use of a counterfeit mark, and for production of a counterfeit mark; to provide for seizure and sale of items in connection with the use of a counterfeit mark; and, to provide for investigatory powers of the Secretary of State.

H.4657 SAME SEX MARRIAGES IN OTHER JURISDICTIONS TO HAVE NO LEGAL FORCE OR EFFECT IN THIS STATE Rep. Haskins

This bill revises the prohibition of same sex marriages, so as to provide that same sex marriages in any other jurisdiction have no legal force or effect in this state. The bill provides that it is against public policy to extend or recognize statutory benefits of a legal marriage to nonmarital relationships and to further provide that any public act, record, or judicial proceeding of this state that extends such benefits to nonmarital relationships has no legal force or effect in this state. The bill provides exceptions for benefits enjoyed by all persons, married or unmarried, and for private agreements valid under the laws of this state. The legislation provides that benefits of a legal marriage extended to nonmarital relationships in another jurisdiction have no legal force or effect in this state.

LABOR, COMMERCE AND INDUSTRY

H.4615 *CONTRACTS TO BUY POWER BETWEEN A JOINT POWER AND ENERGY AGENCY AND CONSTITUENT MUNICIPALITIES* Rep. Owens

This bill revises provisions relating to contracts to buy power between a joint power and energy agency and its constituent municipalities, so as to provide for the extension of contracts to buy power beyond the original fifty-year limit when the date of operation of the electrical utility agent is extended by all agencies having jurisdiction over such an extension.

H.4619 *SUBCONTRACTOR COMPLIANCE WITH STATE UNEMPLOYMENT INSURANCE LIABILITY* Rep. Kirsh

This bill provides a procedure for requiring compliance of a subcontractor regarding state unemployment insurance liability.

H.4634 *"SOUTH CAROLINA CONSUMER REPORTING ACT"* Rep. Merrill

This bill enacts the South Carolina Consumer Reporting Act. The legislation provides for: the release of a free written or electronic disclosure copy of a consumer's credit report; the written notice to a consumer of his right to request a report; a toll-free telephone number for a disclosure request; and, civil penalties for violations, and for failure to correct inaccuracies in the report.

H.4637 *LOCAL GOVERNMENTS AND SCHOOL SYSTEMS PROHIBITED FROM REQUIRING CERTAIN INSURANCE FOR ELIGIBILITY TO BID ON CONTRACTS* Rep. Loftis

This bill provides that a political subdivision, county board of education, or school district, or another entity, agent, or successor in interest, acting on their behalf, may not require, as a condition precedent for a contractor to bid on projects of the political subdivision, county board of education, or school district, that the contractor carry worker's compensation insurance or liability insurance furnished by a particular agent or broker.

S.844 *ELECTRIC COOPERATIVES* Sen. McConnell

This bill revises the Rural Electric Cooperative Act, so as to eliminate the word "rural." The legislation makes numerous other revisions to eliminate references to rural areas in provisions governing the operation of electric cooperatives. The bill provides that electric cooperatives have the right to serve certain premises in areas annexed by municipalities or newly incorporated areas under certain circumstances and with certain exceptions.

H.4656 *TELEPHONE UTILITIES* Rep. Cato

This bill revises requirements for a telephone utility to be granted a certificate of necessity before the construction, operation, or extension of a plant or system, so as to provide that telecommunications carriers that have elected to have alternative regulation shall provide these contracts to the Public Service Commission as required. The bill provides further conditions under which a local exchange carrier may make an election regarding its regulation. The bill defines "abuse of market position" and requires the commission to resolve complaints within one hundred

twenty days. The bill prohibits the commission from regulating a bundled offering or contract offering by a carrier and requires a carrier to adhere to an alternative regulatory plan until it expires or is terminated by the commission. The bill provides that a local exchange carrier providing bundled offerings or contract offerings is obligated to provide certain Universal Service Fund (USF) contributions. The bill provides for the manner in which access minutes of use must be classified and reported for purposes of administering the interim local exchange carrier fund.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.4639 *STATE BOARD OF MEDICAL EXAMINERS* Rep. M.A. Pitts

This bill increases from ten to twelve the number of members of the State Board of Medical Examiners, and increases from one to three the number of Board members who must be laypersons.

H.4640 *MEDICAL DISCIPLINARY COMMISSION* Rep. M.A. Pitts

This bill adds to the Medical Disciplinary Commission of the State Board of Medical Examiners, two resident lay members from each congressional district, to be elected by the General Assembly.

WAYS AND MEANS

H.4612 *CLEMSON ATHLETIC REVENUE BONDS* Rep. Skelton

This bill increases from forty million dollars to sixty million dollars, the maximum allowed amount (at any time) of outstanding athletic facility revenue bonds at Clemson University.

H.4635 *AUTHORIZED INVESTMENTS BY POLITICAL SUBDIVISIONS* Rep. Ceips

This bill authorizes the governing body of a local governmental unit or political subdivision and the county treasurer to invest funds, in addition to funds obtained only from the issuance of debt, in certain money market mutual funds.

H.4643 *HEALTH INSURANCE BENEFITS SURVEY* Rep. Altman

This bill requires the State Budget and Control Board Office of Insurance Services (the Office) annually to survey small business in South Carolina offering employer-paid health insurance benefits to employees. The bill requires that from this survey, the Office calculate a per-employee cost average for this insurance and an average benefit level. The bill requires the Office to certify the cost and benefit averages from the survey to the State Department of Health and Human Services, and provides that the range of health care benefits provided and the per client cost of these benefits pursuant to Medicaid law must not exceed in any fiscal year 90% of the average cost and average benefits certified to the Department of Health and Human Services.

H.4644 *TAXES* Rep. Kirsh

This is the Department of Revenue's annual "clean-up bill," which amends numerous sections of the Tax Code including, but not limited to, updating the date whereby South Carolina adopts by reference various provisions of the Internal Revenue Code.

H.4645 USC-SPARTANBURG Rep. Littlejohn

This bill provides that a \$5 million capital improvement bond authorization for the purpose of a new library/technology/information center at USC-Spartanburg may instead be used for purposes of Health Education Complex/Academic and Student Services.

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